



General Assembly

Substitute Bill No. 6097

January Session, 2009

* _____ HB06097PD _____ 041409 _____ *

AN ACT CONCERNING BROWNFIELDS DEVELOPMENT PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 25-68d of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2009*):

4 (d) Any state agency proposing an activity or critical activity within
5 or affecting the floodplain may apply to the commissioner for
6 exemption from the provisions of subsection (b) of this section. Such
7 application shall include a statement of the reasons why such agency is
8 unable to comply with said subsection and any other information the
9 commissioner deems necessary. The commissioner, at least thirty days
10 before approving, approving with conditions or denying any such
11 application, shall publish once in a newspaper having a substantial
12 circulation in the affected area notice of: (1) The name of the applicant;
13 (2) the location and nature of the requested exemption; (3) the tentative
14 decision on the application; and (4) additional information the
15 commissioner deems necessary to support the decision to approve,
16 approve with conditions or deny the application. There shall be a
17 comment period following the public notice during which period
18 interested persons and municipalities may submit written comments.
19 After the comment period, the commissioner shall make a final
20 determination to either approve the application, approve the

21 application with conditions or deny the application. The commissioner
22 may hold a public hearing prior to approving, approving with
23 conditions or denying any application if in the discretion of the
24 commissioner the public interest will be best served thereby, and the
25 commissioner shall hold a public hearing upon receipt of a petition
26 signed by at least twenty-five persons. Notice of such hearing shall be
27 published at least thirty days before the hearing in a newspaper
28 having a substantial circulation in the area affected. The commissioner
29 may approve or approve with conditions such exemption if the
30 commissioner determines that (A) the agency has shown that the
31 activity or critical activity is in the public interest, will not injure
32 persons or damage property in the area of such activity or critical
33 activity, complies with the provisions of the National Flood Insurance
34 Program, and, in the case of a loan or grant, the recipient of the loan or
35 grant has been informed that increased flood insurance premiums may
36 result from the activity or critical activity. An activity shall be
37 considered to be in the public interest if it is a development subject to
38 environmental remediation regulations adopted pursuant to section
39 22a-133k and is in or adjacent to an area identified as a regional center,
40 neighborhood conservation area, growth area or rural community
41 center in the State Plan of Conservation and Development pursuant to
42 chapter 297, [or] (B) in the case of a flood control project, such project
43 meets the criteria of subparagraph (A) of this subdivision and is more
44 cost-effective to the state and municipalities than a project constructed
45 to or above the base flood or base flood for a critical activity, or (C) the
46 proposal is a change in land use of real property subject to
47 environmental remediation requirements adopted pursuant to section
48 22a-133k that is not considered an intensive use. Reuse of mills and
49 other brownfields, as defined in section 32-9kk, shall not require an
50 exemption from floodplain management certification provided the
51 project renovates an existing structure or structures or the footprint of
52 new construction does not exceed the historic footprint of the former
53 structure on the brownfield, any residential living space is above the
54 five hundred year flood elevations, and such renovation complies with
55 the provisions of the National Flood Insurance Program. Following

56 approval for exemption for a flood control project, the commissioner
57 shall provide notice of the hazards of a flood greater than the capacity
58 of the project design to each member of the legislature whose district
59 will be affected by the project and to the following agencies and
60 officials in the area to be protected by the project: The planning and
61 zoning commission, the inland wetlands agency, the director of civil
62 defense, the conservation commission, the fire department, the police
63 department, the chief elected official and each member of the
64 legislative body, and the regional planning agency. Notice shall be
65 given to the general public by publication in a newspaper of general
66 circulation in each municipality in the area in which the project is to be
67 located.

68 Sec. 2. Subdivision (1) of section 22a-134 of the general statutes is
69 repealed and the following is substituted in lieu thereof (*Effective from*
70 *passage*):

71 (1) "Transfer of establishment" means any transaction or proceeding
72 through which an establishment undergoes a change in ownership, but
73 does not mean:

74 (A) Conveyance or extinguishment of an easement;

75 (B) Conveyance of an establishment through the exercise of eminent
76 domain by a municipality, a foreclosure, as defined in subsection (b) of
77 section 22a-452f or foreclosure of a municipal tax lien or through a tax
78 warrant sale pursuant to section 12-157 or [, provided the
79 establishment is within the pilot program established in subsection (c)
80 of section 32-9cc,] a subsequent transfer by such municipality that has
81 acquired the property through the exercise of eminent domain,
82 foreclosed municipal tax liens or that has acquired title to the property
83 through section 12-157, provided (i) the party acquiring the property
84 from the municipality did not establish or create the condition at the
85 establishment and is not affiliated with such responsible person, and
86 (ii) the establishment enters or remains in one of the voluntary
87 remediation programs administered by the commissioner. For

88 purposes of this section, municipality includes any entity created or
89 operating under chapter 130 or 132;

90 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
91 defined in and that qualifies for the secured lender exemption
92 pursuant to subsection (b) of section 22a-452f;

93 (D) Conveyance of a security interest, as defined in subdivision (7)
94 of subsection (b) of section 22a-452f;

95 (E) Termination of a lease and conveyance, assignment or execution
96 of a lease for a period less than ninety-nine years including
97 conveyance, assignment or execution of a lease with options or similar
98 terms that will extend the period of the leasehold to ninety-nine years,
99 or from the commencement of the leasehold, ninety-nine years,
100 including conveyance, assignment or execution of a lease with options
101 or similar terms that will extend the period of the leasehold to ninety-
102 nine years, or from the commencement of the leasehold;

103 (F) Any change in ownership approved by the Probate Court;

104 (G) Devolution of title to a surviving joint tenant, or to a trustee,
105 executor or administrator under the terms of a testamentary trust or
106 will, or by intestate succession;

107 (H) Corporate reorganization not substantially affecting the
108 ownership of the establishment;

109 (I) The issuance of stock or other securities of an entity which owns
110 or operates an establishment;

111 (J) The transfer of stock, securities or other ownership interests
112 representing less than forty per cent of the ownership of the entity that
113 owns or operates the establishment;

114 (K) Any conveyance of an interest in an establishment where the
115 transferor is the sibling, spouse, child, parent, grandparent, child of a
116 sibling or sibling of a parent of the transferee;

117 (L) Conveyance of an interest in an establishment to a trustee of an
118 inter vivos trust created by the transferor solely for the benefit of one
119 or more siblings, spouses, children, parents, grandchildren, children of
120 a sibling or siblings of a parent of the transferor;

121 (M) Any conveyance of a portion of a parcel upon which portion no
122 establishment is or has been located and upon which there has not
123 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
124 of hazardous waste, provided either the area of such portion is not
125 greater than fifty per cent of the area of such parcel or written notice of
126 such proposed conveyance and an environmental condition
127 assessment form for such parcel is provided to the commissioner sixty
128 days prior to such conveyance;

129 (N) Conveyance of a service station, as defined in subdivision (5) of
130 this section;

131 (O) Any conveyance of an establishment which, prior to July 1, 1997,
132 had been developed solely for residential use and such use has not
133 changed;

134 (P) Any conveyance of an establishment to any entity created or
135 operating under chapter 130 or 132, or to an urban rehabilitation
136 agency, as defined in section 8-292, or to a municipality under section
137 32-224, or to the Connecticut Development Authority or any
138 subsidiary of the authority;

139 (Q) Any conveyance of a parcel in connection with the acquisition of
140 properties to effectuate the development of the overall project, as
141 defined in section 32-651;

142 (R) The conversion of a general or limited partnership to a limited
143 liability company under section 34-199;

144 (S) The transfer of general partnership property held in the names of
145 all of its general partners to a general partnership which includes as
146 general partners immediately after the transfer all of the same persons

147 as were general partners immediately prior to the transfer;

148 (T) The transfer of general partnership property held in the names
149 of all of its general partners to a limited liability company which
150 includes as members immediately after the transfer all of the same
151 persons as were general partners immediately prior to the transfer;

152 (U) Acquisition of an establishment by any governmental or quasi-
153 governmental condemning authority;

154 (V) Conveyance of any real property or business operation that
155 would qualify as an establishment solely as a result of (i) the
156 generation of more than one hundred kilograms of universal waste in
157 a calendar month, (ii) the storage, handling or transportation of
158 universal waste generated at a different location, or (iii) activities
159 undertaken at a universal waste transfer facility, provided any such
160 real property or business operation does not otherwise qualify as an
161 establishment; there has been no discharge, spillage, uncontrolled loss,
162 seepage or filtration of a universal waste or a constituent of universal
163 waste that is a hazardous substance at or from such real property or
164 business operation; and universal waste is not also recycled, treated,
165 except for treatment of a universal waste pursuant to 40 CFR
166 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
167 such real property or business operation; or

168 (W) Conveyance of a unit in a residential common interest
169 community in accordance with section 22a-134i.

170 Sec. 3. Subsection (a) of section 32-9ee of the general statutes is
171 repealed and the following is substituted in lieu thereof (*Effective July*
172 *1, 2009*):

173 (a) [The] Any municipality or economic development agency that
174 receives grants through the Office of Brownfield Remediation and
175 [Development's pilot program established in subsection (c) of section
176 32-9cc] Development shall be considered an innocent party and shall
177 not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as

178 amended by this act, as long as the municipality or economic
179 development agency did not cause or contribute to the discharge,
180 spillage, uncontrolled loss, seepage or filtration of such hazardous
181 substance, material, waste or pollution that is subject to remediation
182 under [this pilot program] section 22a-133k and funded by the Office
183 of Brownfield Remediation and Development; does not exacerbate the
184 conditions; and complies with reporting of significant environmental
185 hazard requirements in section 22a-6u. To the extent that any
186 conditions are exacerbated, the municipality or economic development
187 agency shall only be responsible for responding to contamination
188 directly caused by its activities.

189 Sec. 4. Section 22a-452 of the general statutes is repealed and the
190 following is substituted in lieu thereof (*Effective July 1, 2009*):

191 (a) [Any] Subject only to the defenses set forth in subsections (b), (d)
192 and (f) of this section, any person [, firm, corporation] or municipality
193 [which] that contains or removes or otherwise mitigates the effects of
194 oil or petroleum or chemical liquids or solid, liquid or gaseous
195 products, hazardous substances or hazardous wastes resulting from
196 any discharge, spillage, uncontrolled loss, seepage or filtration of such
197 substance or material or waste shall be entitled to reimbursement or
198 recovery from any person [, firm or corporation] for the reasonable
199 costs expended or to be expended for such containment, removal, or
200 mitigation, including the reasonable costs of investigation and
201 monitoring, if such oil or petroleum or chemical liquids or solid, liquid
202 or gaseous products or hazardous substances or hazardous wastes
203 pollution or contamination or other emergency [resulted from the
204 negligence or other actions of such person, firm or corporation] (1) was
205 directly or indirectly caused by such person, or (2) such person,
206 regardless of fault, is (A) the owner or operator of a facility, (B) any
207 person who, at the time of disposal of any hazardous substance,
208 owned or operated any facility at which such hazardous substances
209 were disposed of, (C) any person who by contract, agreement or
210 otherwise arranged for disposal or treatment, or arranged with a
211 transporter for transport for disposal or treatment, of hazardous

212 substances owned or possessed by such person, by any other party or
213 entity at any facility owned or operated by another party or entity and
214 containing such hazardous substances, or (D) any person who accepts
215 or accepted any hazardous substances for transport to disposal or
216 treatment facilities or sites selected by such person from which there is
217 a discharge, spillage, uncontrolled loss, seepage or filtration of
218 hazardous substances. When such pollution or contamination or
219 emergency results from the joint [negligence or other] actions or
220 omissions of two or more persons, [firms or corporations,] each shall
221 be liable to the others for a pro rata share of the costs of containing,
222 and removing or otherwise mitigating the effects of the same and for
223 all damage caused thereby. For the purposes of this section,
224 "hazardous substances" has the same meaning as in section 22a-134, as
225 amended by this act, provided the municipal solid waste exemption of
226 42 USC 9607(p) shall apply and "owner and operator" and "facility"
227 have the same meanings as in 42 USC 9601.

228 (b) No person [, firm or corporation which] who renders assistance
229 or advice in mitigating or attempting to mitigate the effects of an actual
230 or threatened discharge of oil or petroleum or chemical liquids or
231 solid, liquid or gaseous products or hazardous [materials] wastes or
232 hazardous substances, other than a discharge of oil as defined in
233 section 22a-457b, to the surface waters of the state, or [which] who
234 assists in preventing, cleaning-up or disposing of any such discharge
235 shall be held liable, notwithstanding any other provision of law, for
236 civil damages as a result of any act or omission by him in rendering
237 such assistance or advice, except acts or omissions amounting to gross
238 negligence or wilful or wanton misconduct, unless he is compensated
239 for such assistance or advice for more than actual expenses. For the
240 purpose of this subsection, and "discharge" means spillage,
241 uncontrolled loss, seepage or filtration. [and "hazardous materials"
242 means any material or substance designated as such by any state or
243 federal law or regulation.]

244 (c) The immunity provided in this section shall not apply to (1) any
245 person, firm or corporation responsible for such discharge, or under a

246 duty to mitigate the effects of such discharge, (2) any agency or
247 instrumentality of such person, firm or corporation, or (3) negligence
248 in the operation of a motor vehicle.

249 (d) An action for reimbursement or recovery of the reasonable costs
250 expended for containment, removal or mitigation, including the
251 reasonable costs of investigation and monitoring, shall be commenced
252 on or before the later of (1) six years after initiation of the physical on-
253 site construction of the remedial action taken to contain, remove or
254 mitigate the effects of oil or petroleum or chemical liquids or solid,
255 liquid or gaseous products or hazardous wastes or hazardous
256 substances, or (2) three years after the completion of the containment,
257 removal or mitigation activities.

258 (e) In any action brought pursuant to this section, the Superior
259 Court may issue an order granting the reimbursement or recovery of
260 reasonable costs to be incurred in the future.

261 (f) A person shall not be liable under this section when the person
262 can establish by a preponderance of the evidence that the discharge,
263 spillage, uncontrolled loss, seepage or filtration of a hazardous
264 substance and the resulting damages were caused solely by (1) an act
265 of God, (2) an act of war, (3) an act or omission of (A) a third party
266 other than an employee or agent of the person, or (B) a third party
267 whose act or omission occurs in connection with a contractual
268 relationship, existing directly or indirectly, with the person, except that
269 a person shall not be liable where the sole contractual arrangement
270 with such third party arises from a published tariff and acceptance for
271 carriage by a common carrier by rail, if the person establishes by a
272 preponderance of the evidence that such person (i) exercised due care
273 with respect to the hazardous substance taking into consideration the
274 characteristics of such hazardous substance, in light of all relevant facts
275 and circumstances, and (ii) took precautions against foreseeable acts or
276 omissions of any such third party and the consequences that could
277 foreseeably result from such acts or omissions, or (4) any combination
278 of the foregoing.

279 (g) This section shall apply to any action for the reimbursement or
280 recovery of the reasonable costs for containment, removal or
281 mitigation, including the reasonable costs of investigation and
282 monitoring, except that it shall not apply to any action that has become
283 final, and is no longer subject to appeal, on or before October 1, 2009.

284 Sec. 5. Section 22a-134b of the general statutes is repealed and the
285 following is substituted in lieu thereof (*Effective October 1, 2009*):

286 (a) Failure of the transferor to comply with any of the provisions of
287 sections 22a-134 to 22a-134e, inclusive, as amended by this act, entitles
288 the transferee to recover damages from the transferor, and renders the
289 transferor of the establishment strictly liable, without regard to fault,
290 for all remediation costs and for all direct and indirect damages.

291 (b) An action to recover damages pursuant to subsection (a) of this
292 section shall be commenced not later than six years after the later of (1)
293 the due date for the filing of the appropriate transfer form under
294 section 22a-134a, or (2) the actual filing date of the appropriate transfer
295 form.

296 (c) This section shall apply to any action brought for the
297 reimbursement or recovery of remediation costs and all direct and
298 indirect damages provided this section shall not apply to any action
299 that becomes final and is no longer subject to appeal on or before
300 October 1, 2009.

301 Sec. 6. Section 22a-133dd of the general statutes is repealed and the
302 following is substituted in lieu thereof (*Effective from passage*):

303 (a) Any municipality, any entity created or operating under chapter
304 130 or 132 or any licensed environmental professional employed or
305 retained by a municipality may enter, without liability, [to any person
306 other than the Commissioner of Environmental Protection,] upon any
307 property within such municipality for the purpose of performing an
308 environmental site assessment or investigation on behalf of the
309 municipality or entity created or operating under chapter 130 or 132 if:

310 (1) The owner of such property cannot be located; (2) such property is
311 encumbered by a lien for taxes due such municipality; (3) upon a filing
312 of a notice of eminent domain; (4) the municipality's legislative body
313 finds that such investigation is in the public interest to determine if the
314 property is underutilized or should be included in any undertaking of
315 development, redevelopment or remediation pursuant to this chapter
316 or chapter 130, 132 or 581; or (5) any official of the municipality
317 reasonably finds such investigation necessary to determine if such
318 property presents a risk to the safety, health or welfare of the public or
319 a risk to the environment. The municipality or entity created or
320 operating under chapter 130 or 132 shall give at least forty-five days'
321 notice of such entry before the first such entry by certified mail to the
322 property owner's last known address of record.

323 (b) A municipality or entity created or operating under chapter 130
324 or 132 accessing or entering a property to perform an investigation
325 pursuant to this section shall not [incur any liability pursuant to
326 section 22a-432 for any preexisting contamination or pollution on such
327 property, provided, however, a municipality may be liable for any
328 pollution or contamination resulting from a negligent or reckless
329 investigation] be liable under section 22a-432, 22a-433, 22a-451 or 22a-
330 452, as amended by this act, provided the municipality (1) did not
331 cause or contribute to the discharge, spillage, uncontrolled loss,
332 seepage or filtration of such hazardous substance, material, waste or
333 pollution; (2) does not exacerbate the conditions; and (3) complies with
334 reporting of significant environmental hazard requirements pursuant
335 to section 22a-6u. To the extent that any conditions are exacerbated, the
336 municipality shall only be responsible for responding to contamination
337 directly caused by its activities.

338 (c) The owner of the property may object to such access and entry
339 by the municipality by filing an action in the Superior Court not later
340 than thirty days after receipt of the notice provided pursuant to
341 subsection (a) of this section, provided any objection be limited to the
342 owner affirmatively representing that it is diligently investigating the
343 site in a timely manner and that any municipal taxes owed will be paid

344 in full.

345 Sec. 7. Section 32-23zz of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective July 1, 2009*):

347 (a) For the purpose of assisting (1) any information technology
348 project, as defined in subsection (ee) of section 32-23d, which is located
349 in an eligible municipality, as defined in subdivision (12) of subsection
350 (a) of section 32-9t, or (2) any remediation project, as defined in
351 subsection (ii) of section 32-23d, the Connecticut Development
352 Authority may, upon a resolution of the legislative body of a
353 municipality, issue and administer bonds which are payable solely or
354 in part from and secured by: (A) A pledge of and lien upon any and all
355 of the income, proceeds, revenues and property of such a project,
356 including the proceeds of grants, loans, advances or contributions from
357 the federal government, the state or any other source, including
358 financial assistance furnished by the municipality or any other public
359 body, (B) taxes or payments or grants in lieu of taxes allocated to and
360 payable into a special fund of the Connecticut Development Authority
361 pursuant to the provisions of subsection (b) of this section, or (C) any
362 combination of the foregoing. Any such bonds of the Connecticut
363 Development Authority shall mature at such time or times not
364 exceeding thirty years from their date of issuance and shall be subject
365 to the general terms and provisions of law applicable to the issuance of
366 bonds by the Connecticut Development Authority, except that such
367 bonds shall be issued without a special capital reserve fund as
368 provided in subsection (b) of section 32-23j and, for purposes of section
369 32-23f, only the approval of the board of directors of the authority shall
370 be required for the issuance and sale of such bonds. Any pledge made
371 by the municipality or the Connecticut Development Authority for
372 bonds issued as provided in this section shall be valid and binding
373 from the time when the pledge is made, and revenues and other
374 receipts, funds or moneys so pledged and thereafter received by the
375 municipality or the Connecticut Development Authority shall be
376 subject to the lien of such pledge without any physical delivery thereof
377 or further act. The lien of such pledge shall be valid and binding

378 against all parties having claims of any kind in tort, contract or
379 otherwise against the municipality or the Connecticut Development
380 Authority, even if the parties have no notice of such lien. Recording of
381 the resolution or any other instrument by which such a pledge is
382 created shall not be required. In connection with any such assignment
383 of taxes or payments in lieu of taxes, the Connecticut Development
384 Authority may, if the resolution so provides, exercise the rights
385 provided for in section 12-195h of an assignee for consideration of any
386 lien filed to secure the payment of such taxes or payments in lieu of
387 taxes. All expenses incurred in providing such assistance may be
388 treated as project costs.

389 (b) Any proceedings authorizing the issuance of bonds under this
390 section may contain a provision that taxes or a specified portion
391 thereof, if any, identified in such authorizing proceedings and levied
392 upon taxable real or personal property, or both, in a project each year,
393 or payments or grants in lieu of such taxes or a specified portion
394 thereof, by or for the benefit of any one or more municipalities,
395 districts or other public taxing agencies, as the case may be, shall be
396 divided as follows: (1) In each fiscal year that portion of the taxes or
397 payments or grants in lieu of taxes which would be produced by
398 applying the then current tax rate of each of the taxing agencies to the
399 total sum of the assessed value of the taxable property in the project on
400 the date of such authorizing proceedings, adjusted in the case of grants
401 in lieu of taxes to reflect the applicable statutory rate of
402 reimbursement, shall be allocated to and when collected shall be paid
403 into the funds of the respective taxing agencies in the same manner as
404 taxes by or for said taxing agencies on all other property are paid; and
405 (2) that portion of the assessed taxes or the payments or grants in lieu
406 of taxes, or both, each fiscal year in excess of the amount referred to in
407 subdivision (1) of this subsection shall be allocated to and when
408 collected shall be paid into a special fund of the Connecticut
409 Development Authority to be used in each fiscal year, in the discretion
410 of the Connecticut Development Authority, to pay the principal of and
411 interest due in such fiscal year on bonds issued by the Connecticut

412 Development Authority to finance, refinance or otherwise assist such
413 project, to purchase bonds issued for such project, or to reimburse the
414 provider of or reimbursement party with respect to any guarantee,
415 letter of credit, policy of bond insurance, funds deposited in a debt
416 service reserve fund, funds deposited as capitalized interest or other
417 credit enhancement device used to secure payment of debt service on
418 any bonds issued by the Connecticut Development Authority to
419 finance, refinance or otherwise assist such project, to the extent of any
420 payments of debt service made therefrom. Unless and until the total
421 assessed valuation of the taxable property in a project exceeds the total
422 assessed value of the taxable property in such project as shown by the
423 last assessment list referred to in subdivision (1) of this subsection, all
424 of the taxes levied and collected and all of the payments or grants in
425 lieu of taxes due and collected upon the taxable property in such
426 project shall be paid into the funds of the respective taxing agencies.
427 When such bonds and interest thereof, and such debt service
428 reimbursement to the provider of or reimbursement party with respect
429 to such credit enhancement, have been paid in full, all moneys
430 thereafter received from taxes or payments or grants in lieu of taxes
431 upon the taxable property in such development project shall be paid
432 into the funds of the respective taxing agencies in the same manner as
433 taxes on all other property are paid. The total amount of bonds issued
434 pursuant to this section which are payable from grants in lieu of taxes
435 payable by the state shall not exceed an amount of bonds, the debt
436 service on which in any state fiscal year is, in total, equal to one million
437 dollars.

438 (c) The authority may make grants or provide loans or other forms
439 of financial assistance from the proceeds of special or general
440 obligation notes or bonds of the authority issued without the security
441 of a special capital reserve fund within the meaning of subsection (b)
442 of section 32-23j, which bonds are payable from and secured by, in
443 whole or in part, the pledge and security provided for in section 8-134,
444 8-192, 32-227 or this section, all on such terms and conditions,
445 including such agreements with the municipality and the developer of

446 the project, as the authority determines to be appropriate in the
447 circumstances, provided any such project in an area designated as an
448 enterprise zone pursuant to section 32-70 receiving such financial
449 assistance shall be ineligible for any fixed assessment pursuant to
450 section 32-71, and the authority, as a condition of such grant, loan or
451 other financial assistance, may require the waiver, in whole or in part,
452 of any property tax exemption with respect to such project otherwise
453 available under subsection (59) or (60) of section 12-81.

454 (d) As used in this section, "bonds" means any bonds, including
455 refunding bonds, notes, temporary notes, interim certificates,
456 debentures or other obligations; "legislative body" has the meaning
457 provided in subsection (w) of section 32-222; and "municipality" means
458 a town, city, consolidated town or city or consolidated town and
459 borough.

460 (e) For purposes of this section, references to the Connecticut
461 Development Authority shall include any subsidiary of the
462 Connecticut Development Authority established pursuant to
463 subsection (l) of section 32-11a, and a municipality may act by and
464 through its implementing agency, as defined in subsection (k) of
465 section 32-222.

466 [(f) No commitments for new projects shall be approved by the
467 authority under this section on or after July 1, 2010.]

468 [(g)] (f) In the case of a remediation project, as defined in subsection
469 (ii) of section 32-23d, that involves buildings that are vacant,
470 underutilized or in deteriorating condition and as to which municipal
471 real property taxes are delinquent, in whole or in part, for more than
472 one fiscal year, the amount determined in accordance with subdivision
473 (1) of subsection (b) of this section may, if the resolution of the
474 municipality so provides, be established at an amount less than the
475 amount so determined, but not less than the amount of municipal
476 property taxes actually paid during the most recently completed fiscal
477 year. If the Connecticut Development Authority issues bonds for the

478 remediation project, the amount established in the resolution shall be
479 used for all purposes of subsection (a) of this section.

480 Sec. 8. Subsection (f) of section 22a-133aa of the general statutes is
481 repealed and the following is substituted in lieu thereof (*Effective from*
482 *passage*):

483 (f) A "brownfield investigation plan and remediation schedule"
484 means a plan and schedule for investigation, and a schedule for
485 remediation, of any abandoned or underutilized site where
486 redevelopment and reuse has not occurred due to the presence of
487 pollution on the soil or groundwater that requires remediation prior to
488 or in conjunction with the restoration, redevelopment and reuse of the
489 property. The commissioner may determine for each property whether
490 the commissioner will oversee the investigation and remediation of the
491 property or whether such oversight will be delegated to a licensed
492 environmental professional. For each property subject to a covenant
493 under this section based on an approved brownfield investigation plan
494 and remediation schedule, the owner or prospective purchaser shall
495 perform all investigation and remediation activities under the
496 direction of a licensed environmental professional, and shall ensure
497 that all documents required to be submitted contain a written approval
498 of a licensed environmental professional, even at properties for which
499 the commissioner has not delegated oversight to a licensed
500 environmental professional. Each investigation plan and remediation
501 schedule shall provide a schedule for activities including, but not
502 limited to, completion of the investigation of the property in
503 accordance with prevailing standards and guidelines, submittal of a
504 complete investigation report, submittal of a detailed written plan for
505 remediation, completion of remediation in accordance with standards
506 adopted by said commissioner pursuant to section 22a-133k, and
507 submittal of a final remedial action report. At a minimum, the detailed
508 written plan for remediation shall be submitted, pursuant to the
509 schedule, for the commissioner's review and, as appropriate, approval.
510 In any detailed written plan for remediation submitted under this
511 section, the owner or prospective purchaser shall only be required to

512 investigate and remediate conditions existing within the property
 513 boundaries and shall not be required to investigate or remediate any
 514 pollution or contamination that may exist or has migrated to
 515 sediments, rivers, streams or off-site. If the commissioner approves the
 516 detailed written plan for remediation, the plan shall be considered
 517 incorporated by reference into the covenant not to sue. The
 518 commissioner may require submittal of other plans and reports for the
 519 commissioner's review and approval.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	25-68d(d)
Sec. 2	<i>from passage</i>	22a-134(1)
Sec. 3	<i>July 1, 2009</i>	32-9ee(a)
Sec. 4	<i>July 1, 2009</i>	22a-452
Sec. 5	<i>October 1, 2009</i>	22a-134b
Sec. 6	<i>from passage</i>	22a-133dd
Sec. 7	<i>July 1, 2009</i>	32-23zz
Sec. 8	<i>from passage</i>	22a-133aa(f)

CE *Joint Favorable Subst.*

PD *Joint Favorable*